

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

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Ashley Gager,

Plaintiff

v.

Dell Financial Services, LLC,

Defendant.

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CIVIL ACTION NO. 02-6000

**NOTICE OF REMOVAL**

Defendant, Dell Financial Services, LLC (hereinafter “Defendant” or “Dell Financial”), by and through its attorneys, Duane Morris LLP, hereby files this Notice of Removal of this case from the Pennsylvania Court of Common Pleas for Wayne County, in which Plaintiff, Ashley Gager (hereinafter “Plaintiff”), commenced this action, to the United States District Court for the Middle District of Pennsylvania, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. In support of this Notice of Removal, Dell Financial avers as follows:

1. Plaintiff commenced this civil action by filing a complaint (the “Complaint”) against Dell Financial for alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, on September 30, 2011, in the Pennsylvania Court of Common Pleas for Wayne County.

2. Defendant was served with original process on October 12, 2011.

3. This notice is timely filed pursuant to 28 U.S.C. § 1446(b) because Defendant is removing this action within 30 days after receipt of the Complaint through service.

4. This Court is the proper venue for this action pursuant to 28 U.S.C. § 1441(a) as the Pennsylvania Court of Common Pleas for Wayne County, where Plaintiff commenced this action, is located in the judicial district of the United States District Court for the Middle District of Pennsylvania.

***Removal on Grounds of Federal Question Jurisdiction***

5. This is a civil action of which this Court has original subject matter jurisdiction through federal question jurisdiction under 28 U.S.C. § 1331, and is one that may be removed to this Court by the Defendant pursuant to 28 U.S.C. §§ 1441 and 1446, in that it is a civil action arising under the laws of the United States.

6. Pursuant to 28 U.S.C. § 1331, the federal district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. This is a civil action brought under the Telephone Consumer Protection Act, 47 U.S.C. § 227, which is a law of the United States. Because this action arises under a law of the United States, the federal district courts have original jurisdiction of this civil action.

7. Pursuant to 28 U.S.C. §§ 1441(a), any civil action brought in a State court of which the district courts of the United States have original jurisdiction may be removed by the defendant to the district court of the United States for the district and division embracing the place where such action is pending. Because the federal district courts have original jurisdiction over this civil action, removal to the judicial district of the United States District Court for the Middle District of Pennsylvania is proper.

8. Pursuant to 28 U.S.C. §§ 1441(b), any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the laws of the United States shall be removable without regard to the citizenship or residence of the parties. Because the federal district courts have original jurisdiction over this civil action, removal is proper without regard to the citizenship or residence of the parties in this action.

*Notice*

9. A true and correct copy of the Complaint received by the Defendant and filed on September 30, 2011 with the Pennsylvania Court of Common Pleas for Wayne County in Case No. 627-Civil-2011 is attached hereto and incorporated herein by reference as Exhibit "A."

10. There are no other pleadings and/or orders served on Defendant in the case.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiff.

12. A notice of filing of this Notice of Removal is being filed with the Clerk of the Court of Common Pleas of the Commonwealth of Pennsylvania of Wayne County, contemporaneously with the filing of this Notice of Removal, in accordance with 28 U.S.C. § 1446(d) and is attached hereto and incorporated by reference as Exhibit "B."

WHEREFORE, notice is given that this action is removed from the Pennsylvania Court of Common Pleas for Wayne County to the United States District Court for the Middle District of Pennsylvania.

Respectfully submitted,

DUANE MORRIS LLP

s/Anthony L. Gallia  
Anthony L. Gallia (PA86029)  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
Tel.: 215.979.1127  
Fax: 215.689.4919  
algallia@duanemorris.com

*Attorney for Defendant  
Dell Financial Services, LLC*

Dated: November 11, 2011

### **CERTIFICATE OF SERVICE**

I, Anthony L. Gallia, hereby certify that, on this 11th day of November, 2011, I caused a true and correct copy of the foregoing Notice of Removal, and the attachments thereto, to be served upon counsel of record for the Plaintiff via First Class U.S. Mail, postage prepaid, as follows:

Brett Freeman, Esquire  
Sabatini Law Firm, LLC  
216 North Blakely Street  
Dunmore, Pennsylvania 18512

s/Anthony L. Gallia  
Anthony L. Gallia

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Exhibit A: Complaint Received by Defendant

Exhibit B: Notice of Removal filed with the Clerk of the Pennsylvania Court of  
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